SUPREME COURT OF THE UNITED STATES.

No. 317.

THE UNITED STATES, APPELLANTS,

vs.

THE STEAMER NINA SIMMES, HER TACKLE, APPAREL, &c.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 *Libel of information.—Filed June 23, 1865.*

To the honorable the judges of the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

The libel of information of Rufus Waples, attorney of the United States for the eastern district of Louisiana, who prosecutes for the said United States in this behalf, and being here present in court, in his own proper person, in the name and behalf of the said United States of America, and Charles Black, sr., informant, against the steamer Nina Simmes, her tackle, apparel, and furniture, hereinafter described, and against all persons intervening for their interest therein, in a case of seizure and forfeiture, alleges, propounds, and declares as follows:

I. That Cuthbert Bullitt, esq., marshal of the United States for the said district, under written authority given him by the said attorney, in compliance with instructions issued by the Attorney General of the United States to the district attorneys thereof, and by virtue of the act of Congress, approved on the sixth day of August in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes," heretofore, that is to say, on the 23d day of June, in the year one thousand eight hundred and sixty-five, seized as forfeited to the United States, at New Orleans, within said district, and within the jurisdiction of this court, the steamboat Nina Simmes, her tackle, apparel, and furniture and machinery.

2 II. That by the act of the Congress of the United States, approved August 6, 1861, entitled "An act to confiscate property used for insurrectionary purposes," it was provided, "that if, during the present or any future insurrection against the government of the United States, after the President of the United States shall have declared, by proclamation, that the laws of the United States are opposed, and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person or persons, his, her, or their agent, attorney, or employee, shall purchase or acquire, sell or give, any property of whatever kind or description, with intent to employ the same, or suffer the same to be used or employed, in aiding, abetting, or promoting such rebellion or resistance to the laws, or any person or persons engaged therein; or if any person or persons, being the owner or owners of any such property, shall knowingly use or employ, or consent to the use or employment of the same as aforesaid, all such property is hereby declared to be lawful subject of prize and capture wherever found; and it shall be the duty of the President of the United States to cause the same to be seized, confiscated, and condemned."

III. That the President of the United States did, on the 15th of April, 1861, declare by proclamation, "that the laws of the United States are opposed and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law;" and

that on the 16th of August, 1861, he did reiterate said proclamation, and did declare that "such insurrection" still existed and had not been suppressed.

IV. 1. That the property herein above described was used and employed knowingly by the owner or owners thereof, in aiding, abetting, or promoting the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of the said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in the transportation of troops of the so-called confederate government, in insurrection against the United States, and in the transportation of munitions of war and supplies for the use of the said confederate troops.

2. That the property herein described was used and employed, knowingly, by the owner or owners thereof, in aiding and abetting persons engaged in the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in the transportation of troops of the so-called Confederate States, in insurrection against the government of the United States, and in the transportation of munitions of war and supplies, for the use of the troops of the so-called confederate troops.

3. That the said property was purchased, and acquired, and sold, and given, by the owner or owners thereof, or by his, her, or their agent or employee, with intent to use or employ the same for the purpose of aiding, abetting, and promoting the said insurrection and resistance to the laws, after the approval of said act, and after the public proclamations above mentioned, and after the 16th day of August, 1861, by being used in the transportation of troops of the confederate government, in armed rebellion against the government of the United States, and transporting supplies and munitions of war for the said troops.

4. That the owner or owners of the said property did knowingly consent to the use or employment of it for the purpose of aiding, or abetting, or promoting said insurrection and resistance to the laws, or of aiding, abetting, and promoting persons engaged therein, after the approval of said act, and after the proclamations above mentioned, and after the 16th day of August, 1861, by permitting the use of the property for the purposes above stated.

5. That the owner or owners of said property, his, her, or their agent or employee, did suffer said property to be used or employed in aiding, abetting, or promoting the insurrection proclaimed by the President as aforesaid, and in aiding, abetting, or promoting a person or persons engaged in said insurrection, after the approval of act above mentioned, and after the proclamation of the President, duly made public on the 16th day of August, 1861, by permitting the use of the property for the purposes as aforesaid.

V. That by reason of the premises, the property herein described became and was forfeited to the United States, and ought to be con-

fiscated and condemned to the use of the said United States as enemy property.

Wherefore, the said attorney, in the name and behalf of the United States of America, prays that process of monition may issue against the said property and the owner or owners thereof, and against all persons interested or claiming an interest therein, warning them at some early day, to be named therein, to appear and answer
3 this libel of information; and that an order of publication may be made in the usual form; and that all due proceedings being had, this hon. court may be pleased to decree for the condemnation and forfeiture of the said property to the use and ownership of the said United States, and of Charles Black, sr., informant, and he prays for such further relief as the court is competent to give in the premises.

(Signed) RUFUS WAPLES,
U. S. Att'y for East. Dist. of La.

Filed June 23, 1865.

4 *Order of publication.*

United States circuit court for the sixth judicial circuit and eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER NINA SIMMES, tackle, apparel, and furniture. } No. 3,599.

Whereas the steamer Nina Simmes, her tackle, apparel, and furniture and machinery described in the libel filed by the district attorney and now of record in this court, and all the right, title, and interest therein, has been seized by the marshal of the United States for the eastern district of Louisiana, by virtue of an act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes;" and whereas the United States attorney for the eastern district of Louisiana did, on the 23d day of June, A. D. 1865, file a libel of information in this court, praying the condemnation of said property under the act aforesaid, and that process of monition issue against the owner and owners of said property and all persons interested or claiming an interest therein, warning them at some early day to appear and answer said information:

It is therefore on this 27th June, in the year of our Lord eighteen hundred and sixty-five, ordered that notice be given to the owner and owners of said property and real estate, and all persons interested or claiming an interest therein, to appear and answer this information on the 17th day of July, 1865, and show cause, if any they have, why said property and the right, title, and interest therein should not be condemned and sold according to law; and that notice be given by posting a copy of this order upon the front door of the the court house of the district, and by publication in the Times newspaper twice a week previous to said 17th day of July, A. D. 1865, the first publication to be on or before the 3d July, 1865.

New Orleans, June 27th, 1865.

(Signed) E. H. DURELL, *Judge.*

5 *Warrant.*

The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize, and into your possession take, the steamer Nina Simmes, her tackle, apparel, furniture, and machinery, described in the libel filed by the district attorney, now of record in this court, and now libelled by the United States for the causes set forth in the libel pending in the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana, that you do cite and admonish the owner or owners and all and every other person or persons having or pretending to have, any right, title, or interest in or to the same, to be and appear before a circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said property should not be condemned and sold agreeably to the prayer of the libellant, and how you have executed this warrant, that you make return according to law.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 27th day of June, A. D. 1865, and 89th year of the independence of the United States.

(Signed) F. B. VINOT, [SEAL.]
D'y Clerk.

6 *Marshal's return.*

Received June 30th, 1865, having seized and taken into my possession the steamer Nina Simmes, her tackle, apparel and furniture, on the authority of a previous writ, I posted a copy of this warrant, the libel, and order of the judge on the door of the custom house, and published the monition in the New Orleans Times, a daily paper printed and published in New Orleans, on the 1st, 6th, 11th, and 15th July, 1865.

Returned July 17th, 1865.

(Signed) A. BOUDOUIN, *Chief Deputy.*

7 *Monition.*

UNITED STATES
vs.
THE NINA SIMMES, her tackle, apparel, etc.

In the United States circuit court for the sixth circuit and eastern district of Louisiana, No. 3,599.

In obedience to an admiralty warrant, to me directed in the above-entitled suit, I have seized and taken into my possession the steamboat Nina Simmes her tackle, apparel, etc., now libelled by the United States of America for the causes set forth in the libel now pending in the circuit court of the United States, and I do hereby cite and

admonish the owner or owners thereof, and all and every person or persons having or pretending to have any right, title, and interest in or to the same, to be and appear at a circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the date hereof, to show cause, if any they have or can, why the said steamer, her tackle, &c., should not be condemned as forfeited to the United States,
8 and be sold agreeably to the prayer of the libellants, and the proceeds thereof be distributed according to law.

United States marshal's office, New Orleans, 30th day of June, 1865.

(Signed) CUTHBERT BULLITT,
U. S. Marshal.

Answer of claimnant.—Filed July 22d, 1865.

UNITED STATES
vs.
THE STEAMER NINA SIMMES. } No. 3,599.

United States circuit court, sixth circuit, eastern district of Louisiana.

The answer of Russell B. Roberts, agent of Thomas W. Roberts, the owner and claimant of the steamer Nina Simmes, to the libel of the United States of America against the said steamer, her tackle, apparel, and furniture:

And now comes Russell B. Roberts, of Shreveport, Louisiana, the agent of Thomas W. Roberts, a loyal citizen of the United
9 States, the owner of the steamer Nina Simmes, and for answer to the libel of the United States of America against said steamer, doth allege and propound as follows, to wit:

First. That the said Thomas W. Roberts is the true and bona fide owner of the said steamer Nina Simmes, and that no other person is the owner thereof, and that he, the said Russell B. Roberts, is duly authorized by said Thomas W. Roberts to put in a claim in his behalf to the said steamer in this suit.

Second. That the matters stated in the I article of said libel in regard to the written instructions given to the marshal, and the authority for giving the same, this respondent is informed and believes to be correctly stated. This respondent admits that said steamer was seized as alleged in said I article.

Third. This respondent is informed and believes the matters and things alleged in the II and III articles of said libel are true and correct.

Fourth. That the matters and things alleged and propounded
10 in the IV article of said libel and the subdivisions 1, 2, 3, 4, and 5, are entirely erroneously and falsely stated, and the truth is as thereinafter stated. That said steamer Nina Simmes was occasionally used for the purpose of carrying supplies and provisions for the confederate forces, and on two occasions she was used for the

purpose of carrying confederate troops during the existence of the late rebellion, but that said steamer was never so used or employed as above stated with the consent of the owner thereof or his agent; that such use and employment was against the wishes and consent of the owner thereof and his agent; and the said use and employment of said steamer was brought about by force and compulsion on the part of the so-called confederate government, and against the wish and desire of the owner of said steamer and his agent, and neither the owner thereof nor his agents was in any manner responsible for the said use and employment of said steamer.

11 That all the matters and things alleged and propounded in the said article IV and the subdivisions thereof different from the matters and things alleged and propounded in the said article IV, or tending in any manner to the forfeiture of said steamer to the use and benefit of the United States, are incorrectly, untruly, and falsely stated, alleged, and propounded.

That said steamer was never forfeited to the United States, and ought not to be confiscated to the use thereof as the property of an enemy.

Wherefore this respondent prays this honorable court would be pleased to pronounce against the libel aforesaid, and to condemn the libellant in costs, and otherwise right and justice to administer in the premises.

(Signed) MILES TAYLOR,
Proctor for the Claimant.

(Signed) R. B. ROBERTS.

Sworn to and subscribed before me, this 22d July, 1865.

(Signed) F. B. VINOT, *Dy. Clerk.*

12 *Bond for costs.—Filed July 22d, 1865.*

UNITED STATES OF AMERICA, *Eastern District of Louisiana, to wit, ss:*

Personally appearing before me, the undersigned United States commissioner for the eastern district of Louisiana aforesaid, R. B. Roberts, ag't of Thos. W. Roberts, as principal, and H. J. Phelps, as surety, do hereby acknowledge themselves, jointly and severally, to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements, the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators, firmly by these presents.

Whereas in the matter of the United States *vs.* the steamer Nina Simmes, No. 3,599 of the docket of the circuit court of the United States for the eastern district of Louisiana, a libel of information has been filed on behalf of the United States:

This obligation to be null and void, on condition that the said R. B. Robeit, agent, shall abide by the final decree rendered in the cause, and pay all such costs, expenses, and damages as shall be awarded

by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise this obligation to remain in full force and virtue.

(Signed) R. B. ROBERTS. [SEAL.]
(Signed) H. J. PHELPS. [SEAL.]

Signed and sealed at the city of New Orleans, this 22d day of July, 1865, in presence of—

(Signed) CHS. CLAIBORNE, [SEAL.]
U. S. Commissioner in and for the Eastern District of Louisiana.

13 *Agreement to bond.—Filed August* 9, 1865.

United States circuit court, in chambers.

THE UNITED STATES
vs.
THE STEAMBOAT NINA SIMMES, tackle, apparel, and furniture. } No. 3,599.

The claimant, representing that the steamboat Nina Simmes requires repair in order to her preservation, proposes to bond her, and it is hereby agreed that she be bonded at the sum of one-half above the appraisement, with the condition in the bond that should the judgment be adverse to the claimant, he may satisfy it by paying the amount of the appraisement promptly into court; failure to do so shall leave the steamboat liable as though this agreement had not been made. This agreement not to deprive any party of the right of appeal.

(Signed) MILES TAYLOR
Proctor of Claimants.
(Signed) RUFUS WAPLES,
U. S. Attorney.

14 *In chambers.*

Ordered that the steamboat Nina Simmes, her tackle, apparel, &c., be delivered to Thomas W. Roberts, claimant, on his furnishing his bond with good and solvent security acceptable to the United States attorney, conditioned that should the claimant be cast in this suit and the steamboat Nina Simmes, &c., be condemned to the libellants, the said claimant and his sureties shall satisfy the judgment by paying promptly into court the amount of the appraisement; in default of which the said steamboat, her tackle, &c., shall be delivered up to satisfy the judgment, and the bond in other respects shall be in the usual form.

(Signed) E. H. DURELL, *Judge.*

Order.

Let the appraisement of the steamer Nina Simmes be made by H. J. Heartt and Samuel L. Hill.

(Signed) E. H. DURELL, *Judge.*

15 *Appraisers' report.—Filed August 9, 1865.*

Confiscation department.—Appraisers' report.

UNITED STATES
vs.
STR. NINA SIMMES. } No. 3,599.

To the honorable circuit court for the eastern district of Louisiana:

We, the undersigned appraisers to this honorable court, duly appointed and sworn, have the honor to report that on the 9th day of August, 1865, we proceeded on board of the st'r Nina Simmes for the purpose of ascertaining her value, and after a careful and thorough examination find that she is about four years old; built in New Albany, Ind., Nov., 1860.

This boat had no repairs for three years; is much decayed in upper works and decks. She has three high-pressure boilers and a doctor boiler, 28 feet long 42 inches in diameter; has two good engines, built in 1860; has fair new single timbers, 14 inches; top
16 timbers of roots run down and fastened on the floor-heads; 8 clamps on a side, well bolted; heavy single kelson; straight plank bulkhead from end to end tie-bolted; and, considering her situation at this time, we appraised her at ten thousand dollars.

Given under our hands.

(Signed) H. G. HEARTT,
(Signed) SAM'L L. HILL,
United States Prize Appraisers, New Orleans.

Appraisers' bill.—Filed August 9, 1865.

Confiscated property; United States circuit court.

APPRAISER'S DEPARTMENT,
New Orleans, August 9th, 1865.

To appraiser's office, Dr., H. G. Heartt & S. L. Hill.

UNITED STATES
vs.
STEAMBOAT NINA SIMMES.

For examination, appraisement, etc., of the steamer Nina Simmes:

On property of $10,000 ..... $100

17 *Appraisers' report.—Filed August 9, 1865.*

Appraisers' report.

THE UNITED STATES
vs.
THE STEAMBOAT NINA SIMMES, her tackle, apparel, etc. } No. 3,599.

United States circuit court.

We, the undersigned, appointed and sworn appraisers in the above-entitled cause, have the honor to report that on the 9th day of Au-

gust, 1865, we proceeded on board the said steamboat Nina Simmes for the purpose of ascertaining her value, and after a careful and thorough examination, find that she is about 5 years old; built in the State of Indiana in Oct., 1860, and of the burden of 327$\frac{11}{95}$ tons.

And after a careful examination of the said boat, her tackle, apparel, machinery, etc., we do hereby value and appraise the said boat, her tackle, apparel, and machinery, at the sum of eleven thous-
18 and five hundred dollars cash, and no more.

(Signed) A. H. ISAACSON,
(Signed) JOHN FALEY,
Appraisers.

New Orleans, August 9, 1865.

Sworn to and subscribed before me, this 9th day of August, 1865.
(Signed) F. B. VINOT, *D'y Clerk.*

Order revoking part of order given on 9th August, 1865.—*Filed August 10th*, 1865.

UNITED STATES
vs.
STEAMBOAT NINA SIMMES. } No. 3,599.

Let the steamboat Nina Simmes, her tackle, apparel, and furniture, be delivered to the claimant upon his furnishing bond in the sum of eighteen thousand dollars, and let the sureties on said bond be qualified and examined upon their solvency by Charles Claiborne,
19 esquire, U. S. commissioner, and let the order of 9th instant, so far as it requires the bond to be acceptable to the district attorney, be revoked and annulled.

August 10th, 1865.
(Signed) E. H. DURELL, *Judge.*

Release bond.—Filed August 10, 1865.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

Know all men by these presents that we, Russell B. Roberts, acting as the lawful agent of Thomas W. Roberts, claimant and owner of the steamer Nina Simmes, her tackle, &c., as principal, and Edward Conery, as surety, are held and firmly bound unto the United States, libellant, in the sum of eighteen thousand dollars, lawful money of the United States of America, for the payment whereof to the said United States, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals hereunto affixed by us at New Orleans, this 10th day of August, one thousand eight hundred and sixty-five.

Whereas an admiralty warrant was lately issued out of the honorable the circuit court of the United States of America for the eastern district of Louisiana, at the suit of the United States *vs.* the steamer Nina Simmes, her tackle, apparel, and furniture, and numbered 3,599;

on the docket of the said court, commanding the marshal to seize and take into his possession the steamer Nina Simmes, which has been seized accordingly, but has been released from said seizure and delivered to said claimant and owner thereof by reason of the signing, sealing, and delivery of these presents, said claimant having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now the condition of the above obligation is such that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court and pay the said libellants the amount awarded by the final decree, rendered in the court to which the process is returnable or in any appellate court, then the foregoing obligation is to be void; but otherwise, shall remain in full force and virtue.

(Signed) T. W. ROBERTS, [L. S.]
Per R. B. ROBERTS.
(Signed) E. CONERY. [L. S.]

Signed, sealed, and delivered in the presence of—
(Signed) CHS. CLAIBORNE, *U. S. Commissioner.*

20 Edward Conery, surety on the within bond, being duly sworn, says that he resides in the city of New Orleans, and is worth the sum of eighteen thousand dollars over and above all his debts and liabilities.

(Signed) E. CONERY.

Sworn to and subscribed before me, this 10th August, 1865.
(Signed) CHS. CLAIBORNE, [SEAL.]
U. S. Commissioner.

[5-ct. stamp, cancelled.]

21 *Writ of release.*

UNITED STATES CIRCUIT COURT,
Eastern District of Louisiana, ss:

CLERK'S OFFICE, *New Orleans, Aug.* 10, 1865.

THE UNITED STATES
vs.
THE STEAMER NINA SIMMES. } No. 3,599.

The President of the United States of America to the marshal of the eastern district of Louisiana, or his lawful deputy, greeting:

Whereas Thomas W. Roberts, claimant and owner of said steamer, hath this day filed a claim thereto on behalf of himself, and obtained leave of court to bond the said steamer, and which said claim is now of record in this office:

You are hereby authorized to release the said steamer from seizure and her restore to the possession and custody of said claimant on he having given bond conditioned as required by the order of court and otherwise complying with the rules of the court, &c., and make return hereon of your doings in the premises.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at New Orleans, this 10th day of August, A. D. 1865, and the 90th year of the independence of the United States.

(Signed) F. B. VINOT, *D'y Cl'k.* [SEAL.]

22 *Marshal's return.*

Received August 10th, 1865, and same day, month, and year gave to Thomas W. Roberts, claimant of the above-named steamboat, an order for the keeper to deliver to him said steamboat, for which the receipt is enclosed.

August 10th, 1865.

(Signed) J. J. PREIS,
Dy. U. Marshal.

Received from Cuthbert Bullitt, U. S. marshal, the steamboat Nina Simmes, her tackle, apparel, and furniture.

New Orleans, August 10th, 1865.

(Signed) T. W. ROBERTS,
(Signed) Per R. B. ROBERTS.

23 *Notice to take testimony.—Issued November* 29, 1865.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
STEAMER NINA SIMMES, her tackle, apparel, &c. } No. 3,593.

To Miles Taylor, esqr.:

You are hereby notified that testimony will be taken in the above-entitled cause on Wednesday, the 6th day of December, 1865, at the clerk's office of this court, at 2 o'clock p. m., on behalf of libellant.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

New Orleans, November 29, 1865.

Marshal's return.

Received November 29, 1865, and on the 1st day of December, 1865, served a copy of this notice on Miles Taylor, esqr., at his office, in the hands of his son, Thomas Taylor, the said Miles Taylor
24 being absent from his office, *i. e.*, sick in bed at his residence; so says his son Thomas Taylor.

December 1st, 1865.

(Signed) G. HOLLANDER,
D'y U. S. Marshal.

Notice to take testimony.—Issued December 22d, 1865.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
STEAMER NINA SIMMES. } No. 3,599.

To Miles Taylor, esqr.:

You are hereby notified that testimony will be taken in the above-entitled cause on 26th day of December, 1865, at the clerk's office of this court, at 10 o'clock a. m., on behalf of libellant.

(Signed) F. B. VINOT, *D'y Clerk.*

New Orleans, December 22d, 1865.

25 *Marshal's return.*

Received December 23d, 1865, and same day, month, and year served a copy of the within notice on Miles Taylor, esq., personally.

Dec'r 23, 1865.

(Signed). M. EAGAN,
D'y U. S. Marshal.

Testimony for United States.—Filed December 26, 1865.

UNITED STATES
vs.
STEAMER NINA SIMMES. }

Thos. S. Airy, being sworn for United States, says:

The boat was up Red river and brought me down a lot of corn from Shreveport to Natchitoches. I was then acting assistant quartermaster department Confederate States army, trans-Mississippi.

This corn was sent down for the use of confederate troops. It was in the early part of 1865, in April, I think. This is the only
26 instance that I know of her doing service for the confederates.

Think she made a couple of trips in the latter part of 1864 to Alexandria. Never knew of her carrying troops, ammunition, or arms. Should I hear the name of the party who commanded her I would recollect. Bateman was the man.

Cross-examined:

I was in the confederate employ. Left in March, 1862, with the Crescent regiment. From this regiment I was transferred to the Q. M. department in 1863.

Saw the Nina Simmes in the latter part of 1864 for the first time, at Alexandria. Saw her early in 1865 at Shreveport. From November, 1863, up to the surrender I was in the quartermaster department.

Had the owner of a boat refused to do service he would, I think, have been forced to do so.

I didn't recollect of any instance in which the Nina Simmes was

forced to do service. I had nothing to do with this boat.
27 When I wanted a boat I asked for it and they would send me one.

I had applied to Captain McMasters, chief quartermaster in charge of the river transportation at Shreveport, for a boat, and the Nina Simmes then came down with corn.

She was sent by McMasters' orders; otherwise she would not have been allowed to come down.

I did not see Captain McMasters' order for the Nina Simmes, but I know that McMasters had the control over all the boats, and none could come down without his consent and order.

(Signed) THOM'S S. AIRY.

Sworn to and subscribed before me, this 26th December, 1865.

(Signed) CH'S. CLAIBORNE,
U. S. Commissioner.

Testimony for libellants.—Filed December 26, 1865.

UNITED STATES
vs.
STEAMER NINA SIMMES. } No. 3,599.

28 John C. Marsh, sworn for United States, says:

I have seen this boat on Red river from 1863 up to the time of the surrender.

She has been carrying confederate government corn from Shreveport to Alexandria and other places. Also carried troops; saw some on board. The whole river was a military point. Mr. Roberts commanded her at that time. We called him Rush. I have seen Russell B. Roberts and Thomas W. Roberts on board. Russel B. was the captain.

Cross-examination:

I was then engaged in the machine shop and foundry in Shreveport. It was on private business, not confederate. I carried on a shop at Shreveport from part of '62 to '63 and '64. I made a trip down in the Doubloon, a flag-of-truce boat. This was in 1865. Made several trips on different boats.

One or two on the T. D. Hine, and two on the Doubloon. None on the Nina Simmes. Came down as far as Alexandria. I seen the confederate corn put on board the Nina Simmes at Shreveport,
29 and saw it also discharged at Alexandria, when I was there.

This is the only instance that I saw her discharge government corn at Alexandria.

Saw her discharge confederate property at Grand Ecore.

Don't know that the Nina Simmes was compelled to do confederate service. I am certain that Russell B. Roberts commanded this boat. He commanded her when I made my trip on her. I have no knowledge that Mr. Roberts was forced to do service for the confederate government.

Thomas W. Roberts and Russell B. Roberts were frequently at my shop during the time alluded to, getting work done for the Nina Simmes.

Re-ex.:

Most of the work done by me was for boats in the confederate service.

I know that this boat during the time she run for the confederates did private business and carried private freight.

No re-cross.

(Signed) JNO C. MARSH.

30 Sworn to and subscribed before me, this 26th December, 1865.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

Testimony for claimant.—Filed December 28, 1865.

UNITED STATES
vs.
THE STEAMER VIGO. } No. 3,592.

UNITED STATES
vs.
THE STEAMER NINA SIMMES. } No. 3,599.

By consent of counsel the testimony of the witness is taken as applicable to both vessels.

J. F. Worley, sworn for claimants, says:

I am a steamboat captain, and have been for years. I was in the Red river for the last 4 years.

I knew the Vigo and Nina Simmes. In 1863 I was in command of the steamer P. E. Bonford. Lieutenant Boyce, in command
31 of a squad of confederate soldiers, came on board the Bonford, upon which they had fired, and compelled me to come alongside of the Nina Simmes, which boat they then overhauled, put a guard aboard, and took possession of her and carried her to Washington, Louisiana.

They had put an entire confederate crew on board of her, and made her a tender for the gunboat Queen of the West, a confederate war vessel. Captain Roberts had the Nina Simmes on a bayou on Red river, about 12 miles from Old river. The confederates took the Nina Simmes by force.

Being asked did not the confederate government take any boat whose services they required, with or without the consent of the owner?

(District attorney objects to the question as irrelevant and as leading.)

Exception sustained.

Being asked what course the confederate government pursued with the boats they wished in their service.

(Objected to on the ground of incompetency and irrelevancy.)

Exception sustained.

32 I know that the Nina Simmes was taken possession of by an armed confederate force before this instance and without the consent of the owners and against their will.

Don't know how long the confederates kept possession of her.

I know that the owners remonstrated against the taking of their boat. I know that the Nina Simmes had been hidden for a good while in the lakes somewhere about Shreveport. Cannot say exactly where, because I was not there.

I know she was in the lakes because I saw her there. I know that the Vigo was taken by the confederates because I was there at the time. She was taken by a military force at Grand Ecore. She was raising steam at the time in order to run her into Bayou Pierre to hide her. They did not want her to work for the confederates. Tho's W. Roberts had sent for me to act as pilot and run her into Bayou Pierre.

33 This was better than two years ago. Think it was 2 years last June General McCulloch took posession of her and used her to transport confederate troops from Grand Ecore to Alexandria. I don't recollect what Thos. W. Roberts stated at the time, he went off with General McCulloch.

About 40 or 50 men came on board with General McCulloch and took her.

It was not safe for the owner to protest on such occasions against the taking of the boat.

Captain T. W. Roberts commanded the Vigo when the confederates took her.

He manifested anxiety at the time to get her away and out of the reach of the confederates.

Cross-examined:

I believe W. Boardman was captain of the Vigo on the trip she was overhauled and taken by the confederates.

The Nina Simmes was hidden in this bayou. I know it because in passing there I saw her. I had gone into the bayou hunting ducks, and saw her there. I can't tell whether the Nina Simmes had been in the confederate service before she was overhauled. I have

34 seen her in Red river and Mississippi river before that time.

I was in the latter part of March or beginning of April, 1863, that the Nina Simmes was overhauled by the Bonford. I was at Alexandria when she was taken a second time; this was after she had been released from tending the Queen of the West.

I can't state whether the Nina Simmes was taken the second time in the summer of 1863 or 1864. I can't tell the time.

Russel Roberts acted as her captain a part of the time. Don't know who was her clerk.

I have seen the Nina Simmes carry troops twice. First when Boyce took her, and the next time after the surrender, when she came out with confederate paroled prisoners, who had laid down arms.

I know that the Nina Simmes was carrying private freight and passengers whilst running in Red river. I know that the Nina Simmes was in the lakes, and heard she had been hid there. I know she was not in the river. Captain T. W. Roberts commanded the
35 Vigo a part of the time, and I made two trips with her. She did private business whilst running in confederate service.

I know the Vigo was running in the Red river before McCullock took her. She was then commanded by Captain Doyle, and I don't know what he did with her. I think that Roberts bought her in 1862, in the Red river. Think Roberts bought her at Shreveport, a military point at that time, in the fall of 1862.

(Signed) J. F. WORLEY.

Sworn to and subscribed before me, this 28th December, 1865.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

Testimony for claimant.—Filed December 29th, 1865.

UNITED STATES
vs.
STEAMBOAT NINA SIMMES, tackle, apparel, and furniture. } No. 3,599.

36 United States Circuit Court. Present: District att'y for the United States; Charles B. Singleton, for claimant.

Deposition taken before Charles Claiborne, United States commissioner, at his office in the city of New Orleans, September 18th, 1865, at 12 o'clock m.

William J. Boardman a witness for claimant, being duly sworn, deposes and says:

I was captain of the steamboat Nina Simmes during three months of the year 1863, and pilot on her for the years 1863 and 1864. She was during that time in the Red river, sometimes in the Mississippi river, at Port Hudson, up as high as Waterproof. She was in the employ of the confederate government a portion of that time. We always endeavored to avoid being in the service of said confederate government, but willing or not we were compelled to be in their employ.

R. B. Roberts had full control of her during the whole time.
37 He ordered me once to conceal her in the swamp, which I did.

I concealed her in the Red River swamp, in Bayou Larto. She remained there about five days. The intention of the confederate government was to make a gunboat of her, that was the reason we concealed her; when the idea was abandoned we came out. The boat was then taken possession of by the military, by a lieutenant

and a squad of soldiers of the confederacy. We were taken with the boat to Washington, Louisiana, and delivered to Captain Fuller, of the confederate navy. The boat was afterwards kept in the service of the confederate government as long as the water permitted her to be run. R. B. Roberts, whilst in Red river, at Alexandria, was put under arrest for disobeying orders, he having refused to raise steam and go up Red river. At the mouth of Red river, in 1865, he was tied to his bell for refusing to take passengers on board of his boat when ordered to do so by the confederate authorities. There was no mode of avoiding the boat's being used by the con-
38 federate authorities; if refused some one would have been put on board of her, and the boat taken possession of.

This was done in regard to the Lelia, a boat owned in part by Captain Roberts. She was completely run down and knocked to pieces whilst under charge of those placed on her by the confederate authorities.

Cross-examined:

Thomas W. Roberts was up to about September, 1864, in the confederacy. He was during that time a steamboat man. He was on board of the Vigo as captain. I was captain of the Nina Simmes in February, 1863, and continued as such during about three months. The orders I mentioned in my examination-in-chief were in writing. I think they can be produced. I know not whether Captain Roberts has them now or not; our orders were always in writing. Some of the orders came from General Taylor; some from General Kirby Smith. I do not recollect the names of the inferior officers
39 signing the same. I was pilot of the boat before I became her captain. My information dates from the time I went on board of the boat in January, 1863.

Previous to 1863, when she was purchased by Captain Roberts, she was owned by Captain Hinkley, Captain Louaillier, Captain James Capps, Captain Neal, and Captain Huldrick. I believe these were all the parties who had shares in her. About five hundred dollars a day was the compensation allowed by the confederate government for the use of the boats; about five hundred dollars in confederate money. The owners or captain had nothing to say about the amount of the compensation. It was fixed by confederate authorities. The captain had to take the amount fixed upon or nothing. I do not know how much was received by the captain. He was paid for the year 1863 in full. When captain of the boat, I sometimes would receive about one thousand dollars for the purpose of paying wood bills and incidental expenses. I received these sums occasionally;
40 these sums were received from the confederate government for the use of the boat. Captain Roberts paid me my salary as captain and pilot of the boat. He also paid the hands on board. He paid for the fuel, &c.; the money was paid through his orders.

I know from the conversations of Captain Roberts that he was opposed to having his boat used by the confederate authorities. I also know this fact from his instructions to me, which were to keep the

boat if possible out of the reach of the confederate authorities. All I know with regard to the objection of Captain Roberts to have his boat used as mentioned above is from what Captain Roberts told me. Apart from what he told me, I do not know whether the boat was used with or without his consent. I do not know what his thoughts were. I do not know whether or not Captain Roberts ever contributed anything for the cause of the Union. He returned to New Orleans since the surrender of the trans-Mississippi department by General Kirby Smith. I do not know what is the amount
41 of claims due Captain Roberts for the use of his boat by the confederate government. He told me before the surrender that the confederate government owed him about one hundred thousand dollars.

Captain Roberts resides in New Orleans. He was in Shreveport or on Red river at the time of the surrender of the city of New Orleans.

Before the Nina Simmes was purchased by Captain Roberts, she was concealed in the Bayou Alabama, where she was when I came on board of her. She was so concealed to prevent Captain Fuller of the confederate navy to get hold of her. Commissary and quartermaster's stores, munitions of war, supplies for the armies, soldiers, horses, mules, etc., were carried on board of her for the confederate government, during the years 1863, 1864, and 1865.

Direct examination resumed:

When Captain Roberts mentioned to me that he was opposed to his boats being used by the confederate authorities, he was angry, and said that he wished they were all in hell, and that he
42 would burn her rather than let the confederates have her, if he thought he could get away in safety.

Any one who would have helped the Union cause in that section of the country would have been hung; that is my opinion.

Cross-examination resumed:

I do not know whether Captain Roberts has done anything for the Union cause since his return to the city.

(Signed) WM. J. BOARDMAN.

(The above and following testimony is taken subject to all legal exceptions, except as to the manner and form of taking the same.)

Sworn to and subscribed before me, this 18th day of September, 1865.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

J. J. Comaun, a witness for claimants, being duly sworn, deposes and says:

I was purser on board of the Nina Simmes during the whole
43 time that Captain Boardman was on her as captain and pilot. The confederate government had control of the Nina Simmes

during the whole of that time, with the exception of about one month, when I first went on board. She was used by the confederate authorities without the consent of Captain Roberts; he opposed her being used by them. Captain Roberts appeared to be in very bad humor to see his boat used by the confederate government; he always told me that he would be glad to see his boat *used by the confederate government; he always told me that he would be glad to see his boat* out of the confederacy, and if he could run the blockade he would do so. This he told me confidentially; if he had said so outside I know not what the consequences would have been. I suppose if he had been caught attempting to run the blocklade he would have been hung. I was purser of the boat when he was arrested for refusing to raise steam in time when ordered to do so. He was arrested at Alexandria by Captain or Major Levy, of General Taylor's staff, I think. The absence of docks and other conveniences for repairing boats in the confederacy caused them to be injured very rapidly when in use. Confederate money was of no use to the owners of the boat after they earned it; they paid off the hands with it, but could not invest it; they could also buy provisions, fuel, etc., with it, but at very high prices.

44

Cross-examined:

All I know with regard to the objections of Captain Roberts to have his boat used by the confederate authorities, as I mentioned before, is from what Captain Roberts told me and from what he said to others in my presence. He so spoke to travellers on the boat; I do not remember their names. I often was present when he so spoke to his friends and to others.

Munitions of war, commissary stores, quartermaster's stores, arms, troops, &c., belonging to the confederate government were carried by the Nina Simmes during the years 1863, 1864, and 1865. Captain Roberts paid me for my services on board of the boat; he paid me something. I, as purser, paid the hands, by order of Captain Roberts.

45

As purser I received five hundred dollars a month for the use of the boat. I received the same from the confederate authorities. I never received more than twelve thousand dollars from said authorities during the whole time I was on board.

Captain Roberts resides in New Orleans; this has been his home for many years; it was his home before the war. When Captain Roberts bought the Nina Simmes, she was sunk; her owners had bored a hole in her and sunk her; I heard so from Captain Roberts and others. She was sunk in the Alabama bayou.

(Signed) J. J. COMAUN.

Sworn to and subscribed before me, this 18th September, 1865.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

46 *Notice to take testimony.—Issued January* 13, 1866.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
STEAMER NINA SIMMES. } No. 3,599.

To Miles Taylor, esq'r:

You are hereby notified that testimony will be taken in the above-entitled cause on Monday, the 15th day of January, 1866, at the clerk's office of this court, at 9 o'clock a. m., on behalf of plaintiff.

(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

New Orleans, Jan'y 11th, 1866.

Marshal's return.

Received January 13th, 1866, and on the same day, month, and year served a copy of the within notice on Miles Taylor, esq., personally.

Jan'y 15th, 1866.

J. J. PREIS, *U. S. Marshal.*

47 *Testimony for libellants.—Filed January* 15, 1866.

UNITED STATES
vs.
THE STEAMER NINA SIMMES. }

Maurice Grivot, sworn for the United States, says:

For the last 3 years I have been at Alexandria and also at Shreveport; staid at Alexandria; went there in September, 1862; remained till May, 1865. Saw the Nina Simmes in Red river; she was carrying passengers to Alexandria part of the time; understood she had been up above Alexandria for the greatest part of the time.

Don't know whether she was or not engaged in the confederate service; never saw any commissary stores or other war articles on board. In fact I never was on board of her but once or twice. Have no recollection of having seen confederate soldiers on her; I did not see any flag on her, (this reference approved.) Mr. Boardman acted as her captain for one or two trips. Don't know the owners
48 of the boat. I had very little conversation with Captain Boardman; knew him but slightly; never talked politics with him that I remember.

(Signed) MAUR'CE GRIVOT.

Cross-examined:

Being asked whether all boats were not compelled to do confederate duty whenever they were required—

(District attorney objects.)

Answers. Yes.

(Signed) M'E GRIVOT.

Re-ex.:

I do not know that force was ever used against this boat, because I don't know whether she ever was in the confederate service.

Sworn to and subscribed before me, this 15th January, 1866.
(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

49 *Notice to take testimony.—Issued January 23d, 1866.*

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
ST'R NINA SIMMES. } No. 3,599.

To Miles Taylor, esq'r:

You are hereby notified that testimony will be taken the above-entitled cause on Friday, the 26th day of January, 1866, at the clerk's office of this court, at 5½ o'clock p. m., on behalf of libellant.
(Signed) F. B. VINOT, *D'y Clerk.* [SEAL.]

New Orleans, Jan'y 23d, 1866.

Marshal's return.

Received January 23d, 1866, and same day, month, and year served a copy of the within notice on Miles Taylor, esq'r., the attorney named herein, personally.
January 25th, 1866.
(Signed) J. J. PREIS,
D'y U. S. Marshal.

50 *Testimony for libellants.—Filed January 26, 1866.*

UNITED STATES
vs.
ST'R NINA SIMMES. }

Wm. Stevens, sworn for United States, says:

I saw the Nina Simmes once, in '64, on Red river, at Alexandria; don't know what she was doing then; don't know what position she occupied then.

Ernest Richard, sworn for United States, says:

I know this boat; saw her in Red river in 1864; saw her at Nachitoches, but don't know what trade she was in. Never saw any stores on her, and don't know that she was in confederate service. Don't know that she carried a flag. Don't know what trade she was in. Was in Shreveport 3 months before the fall. Saw the Nina

51 Simmes 10 or 12 times. She was tied up when I saw her at Shreveport.

(Signed) E. RICHARD.

Sworn to and subscribed before me, this 26th January, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

Return to commission marked B.—Filed February 10th, 1866.—Commission.—Issued January 25, '66.

Circuit court of the United States for the sixth judicial circuit, holding sessions in and for the eastern district of Louisiana.

To any judge or justice of Louisiana or United States commissioner:

Know ye, that reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause to come before you A. Santini, and him duly exam-
52 ine on the annexed interrogatories-in-chief and cross-interrogatories, on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein the United States are plaintiffs, and the steamboat Nina Simmes is defendant, and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of New Orleans, this 25th day of January, anno Domini 1866, and the 90th year of the independence of the United States of America.

(Signed) CHA'S CLAIBORNE, *Clerk.*

[SEAL.] By F. B. VINOT, *D'y Clerk.*

Interrogatories annexed to foregoing commission.

53 UNITED STATES
versus
STEAMBOAT NINA SIMMES.

Interrogatories to be propounded to A. Santini, residing at Shreveport, in the State of Louisiana, the answers to which are to be used in behalf of the claimants on the trial of the above-entitled suit:

1st. What is your age? Where do you reside?

2d. Are you acquainted with Captain Russell B. Roberts and Thomas W. Roberts? If yea, how long have known them?

3d. Do you know how the steamboat Nina Simmes? If yea, how long have you known her? Where was she most of the time during the late war?

4th. Was said steamboat in the service of the Confederate States in any manner during the late war? If yea, under what circumstances was she so employed by the confederate government or for the confederate government?

5th. Was there anything said by those in charge of said steamboat in regard to the use thus made of her for or by the confederate government? If yea, state what was said and by whom anything was said.

6th. Were there or were there not any efforts made to prevent said steamboat from being used by or for the confederate government? If yea, what efforts were so made? By whom were such efforts made? What were the effects of such efforts?

7th. In the above-entitled suit the United States government has proceeded against said steamboat in order to condemn and confiscate her to the use and benefit of the United States for aiding the rebels, or being used for or by the late Confederate States in the prosecuting of the late war or rebellion. Now if you know any fact or circumstance that will benefit or be of service to Captain Thomas W. Roberts and the other owners of said steamboat, you will state the same fully and in detail.

(Signed) MILES TAYLOR,
Proctor of Claimants.

I consent and agree that a commission issue without motion or affidavit, to be directed to any judge or justice of Louisiana or United States commissioner, whose certificate shall be full proof of his official capacity.

Cross-interrogatories annexed to the foregoing commission.

The United States reserving all legal exceptions to the foregoing interrogatories and answers to be made thereto, puts the following cross-interrogatories:

1st. Where was the steamer Nina Simmes at the time of the fall of New Orleans?

2d. Was the steamer Nina Simmes or owners paid for her services for confederate government? Was certificates or vouchers issued for said services?

3d. Who was the captain of said boat whilst she was in confederate service? Who was clerk of her?

4th. Has the Nina Simmes changed owners since August 16, 1861?

5th. Did the Nina Simmes carry a flag? If so, was it the flag of the United States of America, or the flag of the so-called Confederate States of America?

6th. Who was the owner or owners of said boat? Were they Union men or friends to the confederate government?

7th. One of the facts stated by you, in reply to the interrogatories-in-chief, stated from your personal knowledge, or from information of others? State what facts are within your knowledge, and what your information.

8th. If you state that the Nina Simmes run under military orders, state by whom they were issued, when dated or given.

9th. If you state that compulsion or actual force was used to secure the services of the Nina Simmes for confederate government, state the particulars of such force, and how you know it.

10th. What has been your employment and occupation since 1st February, 1861?

Signed) JNO. K. GOODLOE,
U. S. Attorney.

Deposition of A. Sartini, taken under foregoing commission.—Filed 10th February, 1866.

Depositions of witness produced, sworn, and examined on the day hereinafter stated, at the office of Moncure and Flanagan, in the city of Shreveport, State of Louisiana, under and by virtue of the annexed commission issued out of the circuit court of the United States for the sixth judicial circuit, holding sessions in and
58 for the eastern district of Louisiana, to take depositions in a certain cause pending and at issue between the United States as plaintiff, and the steamboat Nina Simmes as defendant.

A. Sartini, who, being first duly sworn on the Holy Bible on this 1st February, in the year of our Lord 1866, doth depose and say:

First. To the first interrogatory he saith: He is twenty-nine years of age; resides in Shreveport, Louisiana.

Second. To the second interrogatory he saith: He is acquainted with Captain Russell B. Roberts and Thomas W. Roberts, and has known them since the last of A. D. 1862, or the first of A. D. 1863.

Third. To the third interrogatory he says: He knows the steamboat Nina Simmes; has known her since June, A. D. 1863. For the most of the time after witness knew her during the late war,
59 she was laying about three miles above Shreveport, Louisiana, at the mouth of Twelve-mile bayou.

Fourth. To the fourth interrogatory he saith: She was never in the Confederate States service that witness knew of. Witness says that while he was employed on the Vigo, the steamer Nina Simmes, which also belonged to R. B. and T. W. Roberts, was in bad repair, and indeed unfit for service; and from June, A. D. 1863, up to October, A. D. 1864, when witness left for Ohio, she never made any trip at all.

Fifth. To the fifth interrogatory he saith: She never made any trip that witness is aware of for the confederate government or any one else.

Sixth. To the sixth interrogatory he saith: He refers to his answers in the fourth and fifth interrogatories.

Seventh. To the seventh interrogatory he saith: That the
60 steamboat Nina Simmes, during the time that he knew her, was in a damaged condition, and unfit for service; and if she had gone upon any trip during that period, he would have known it. He knows the fact that she was never used during said period in the service of the Confederate States, or in aiding the rebellion.

Cross-interrogatories:

First. To the first cross-interrogatory he saith: Don't know.

Second. To the second cross-interrogatory he saith: She never ren-

dered any service to the confederate government that witness is aware of.

Third. To the third cross-interrogatory he saith: The only officer in charge of the steamboat Nina Simmes, while witness knew her, was a mate who took care of her while laying up at the mouth of 12 miles bayou.

61 Fourth. To the fourth cross-interrogatory he saith: He has no knowledge of change of ownership, except he was informed that she was purchased by R. B. and T. W. Roberts in the spring of A. D. 1863, from whom witness does not know.

Fifth. To the fifth cross-interrogatory he saith: He never saw her carry any flag.

Sixth. To the sixth cross-interrogatory he saith: The owners were R. B. and T. W. Roberts, to the best of the information of witness; at least they claim to be the owners of her. T. W. and R. B. Roberts always expressed themselves as earnest Union men in conversation with witness. They were natives of Ohio.

Seventh. To the seventh cross-interrogatory he saith: The answers to the interrogatories-in-chief are made upon the personal knowledge of witness, except wherein the answers themselves the said facts are stated to be upon the information of others.

62 Eighth. To the eighth cross-interrogatory he saith: She never ran under military orders to the knowledge of witness.

Ninth. To the ninth cross-interrogatory he saith: She never was in the confederate service to the knowledge of witness.

Tenth. To the tenth cross-interrogatory he saith: He was a farmer until A. D. 1862, and from that time until October, A. D. 1864, has been steamboating.

(Signed) A. SARTINI.

Sworn to and subscribed before me, this the first of February, A. D., 1866.

(Signed) E. H. ALLEN,
Justice of the Peace, State of Louisiana, in and for the Parish of Caddo.

I, Henry E. Allen, the undersigned, justice of the peace, State of Louisiana, in and for the parish of Caddo, do certify that I have caused A. Sartini, witness hereinbefore named and examined,

63 to appear before me at the time and place above named; and, after publicly and solemnly swearing him to tell the truth, the whole truth, and nothing but the truth, in answer to the annexed direct and cross-interrogatories, I then and there proceeded to examine him by propounding to him the said direct and cross-interrogatories, and reducing, in my presence and that of the witness, his answers thereto in writing with my own hand. I then caused him to sign his deposition in my presence, as already stated.

In testimony whereof I hereunto set my hand this the 1st February, A. D. 1866.

(Signed) HENRY E. ALLEN,
Justice of the Peace, State of Louisiana, in and for the Parish of Caddo.

Motion and order to open commission.—From minutes of February 10, 1866.

UNITED STATES
vs.
ST'R NINA SIMMES. } No. 3,599.

64 On motion of John K. Goodloe, esq., United States attorney, ordered that the return of the commission, now on file and under seal in this case, be opened.

Amended answer.—Filed March 5th, 1866.

United States circuit court, sixth circuit, eastern district of Louisiana.

UNITED STATES
vs.
STEAMBOAT NINA SIMMES. } No. 3,599.

Now into court comes Thomas W. Roberts, claimant, by his counsel, and files this amended answer to the libel and complaint of the libellant:

1st. That, after the surrender of General E. Kirby Smith, commanding the confederate forces of the trans-Mississippi department, and his forces to Major General Canby, the said steamboat
65 was permitted to proceed to the port of New Orleans without molestation; and in consequence of the terms of the aforesaid surrender and the 4th article of General Orders No. 61, published by Major General Canby, commanding the military division of West Mississippi on the 26th May, 1865, and the general principles of international law, the steamboat Nina Simmes is exempt from seizure and confiscation under the act of Congress of the 6th August, 1861, relied on by the libellant in this case.

Wherefore claimant prays that the libel be dismissed at the costs of the libellant, and that his honor the judge of this court do right and justice in the premises deem.

(Signed) MILES TAYLOR.
(Signed) J. W. ROBERTS,
Per R. B. ROBERTS, *Ag't.*

Sworn to and subscribed before me, this 5th March, 1866.
(Signed) F. B. VINOT, *D'y Clerk.*

Plea of pardon under amnesty proclamation of 8th December, 1863.—Filed March 5, 1866.

United States circuit court, sixth circuit, eastern district of Louisiana.

66 UNITED STATES
vs.
STEAMBOAT NINA SIMMES. } No. 3,599.

And the said Thomas W. Roberts, by his attorney, now comes into court and says the plaintiffs ought not to have and maintain this action, because the President of the United States did, on the eighth

day of December, 1863, issue his proclamation granting full pardon and amnesty to the persons therein named and not excepted in said proclamation upon the conditions therein fully specified and detailed, viz:

1st. That each and every person should take the oath mentioned in said proclamation.

2d. And that each person taking said oath should not again violate the same.

3d. That each person taking said oath should not be included within or under any of the exceptions mentioned or contained
67 in said proclamation.

Now the said Thomas W. Roberts shows that he does not come under any of the exceptions mentioned in said proclamation, and that he did on the November, 1864, take said oath, and has ever since said date kept the same inviolate. The certificate whereof he hereto annexes and makes a part hereof, and he hereby specially refers to said proclamation, and makes the same a part hereof. By reason of the foregoing he, the said Thomas W. Roberts, is entitled to a full pardon, with restoration of all rights of property, except as to slaves, and in property cases where rights of third parties shall have intervened.

Wherefore, and by reason of the foregoing, the said Thomas W. Roberts prays that this action be dismissed, and the aforesaid steamboat Nina Simmes proceeded against therein be dismissed and discharged from all further proceedings specified in said libel.

(Signed) MILES TAYLOR.
(Signed) J. W. ROBERTS,
Per R. B. ROBERTS, *Ag't.*

68 Sworn to and subscribed before me, this 5th March, 1866.
(Signed) F. B. VINOT, *D'y Clerk.*

Note of evidence.—Filed March 27, 1866.

UNITED STATES
vs
THE STEAMER NINA SIMMES. } No. 3,599.

Defendant offered commission marked B.

The testimony filed December 29, 1865.

And testimony filed December 28th, 1865, in the case of the Vigo, No. 3,592.

Hearing and submission.—From minutes of March 27th, 1866.

UNITED STATES
vs.
ST'R NINA SIMMES. } No. 3,599.

69 This cause came up for trial.

District attorney for libellants; Miles Taylor and G. Schmidt for defendants.

And after hearing pleadings, evidence, and counsel, the court took time to advise.

Final decree dismissing libel.—From judgment docket.

Circuit court of the United States, sixth circuit and eastern district of Louisiana, April term, 1866.

NEW ORLEANS,
Saturday, June 30th, 1866.

Court met pursuant to adjournment. Present, the Hon. E. H. Durell, district judge.

THE UNITED STATES
vs.
STEAMER NINA SIMMES. } No. 3,599.

For reasons orally assigned by the court, in the case of the United States *versus* the steamer Frolic, No. 3,595 of the docket, it is
70 ordered, adjudged, and decreed that the libel be dismissed, and that the property seized be restored to the claimant upon the payment of all costs, and a fee of $500 to the district attorney.

Judgment rendered June 30, 1866.
Judgment signed June 30, 1866.
(Signed) E. H. DURELL, *Judge.*

Petition of appeal.—Filed July 6th, 1866.

United States circuit court.

UNITED STATES
vs.
ST'R NINA SIMMES. } No. 3,599.

To the hon. the judges of the circuit court of the United States for the sixth circuit and eastern district of Louisiana:

The petition of John K. Goodloe, United States attorney, in the name and behalf of the United States of America, libellants here-
71 in, respectfully represents: That a final sentence and decree was entered on the 30th day of June, 1866, in the above-entitled suit, in the said United States circuit court, in and by which said final sentence and decree it was ordered, adjudged, and decreed that the libel herein be dismissed and the property seized restored to the claimants; that said final sentence and decree is adverse to libellants, and to their manifest injury and prejudice; that the matter in controversy exceeds in value the sum of two thousand dollars; that your petitioner, in behalf as aforesaid, feels aggrieved by the rendition of said final decree, and is advised that the same is erroneous and ought to be reversed.

Wherefore, petitioner, in behalf as aforesaid, doth hereby appeal from said final sentence and decree to the Supreme Court of the United States, returnable on the first Monday of December next, and prays this honorable court to grant him a suspensive appeal from said final decree, the same to operate as a supersedeas,
72 and that said final decree may be reversed, and such other

decree thereupon made as to said Supreme Court shall seem just, and that a transcript of the record and proceedings in this cause, duly authenticated, may be sent up to the next Supreme Court without delay.

(Signed) C. S. KELLOGG,
Ass't U. S. Attorney.

Order.

An appeal to operate as a supersedeas is allowed in this case, as prayed for, returnable to the Supreme Court of the United States the first Monday of December next, the appellants being by law dispensed from giving bond and security in judicial proceedings.

July 6th, 1866.

(Signed) E. H. DURELL, *Judge.*

73 UNITED STATES OF AMERICA:

Circuit court of the United States, sixth circuit and eastern district of Louisiana.

CLERK'S OFFICE.

I, Charles Claiborne, clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, do hereby certify that the foregoing 72 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of the United States *vs.* the steamer Nina Simmes, her tackle, apparel, &c., No. 3,599 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 18th day of August, A. D. 1866.

(Signed) CH'S CLAIBORNE, *Clerk.* [SEAL.]

5 ct. int. rev. stamp, cancelled.

I, E. H. Durell, United States judge for the eastern district of Louisiana, do hereby certify that Charles Claiborne, whose name is signed to the above certificate as clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 18th day of August, A. D. 1866.

E. H. DURELL, *Judge.*

5 ct. United States revenue stamp, cancelled.

74 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to Thomas W. Roberts, claimant and defendant, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the first Monday of December next, pursuant to a petition and order of appeal, filed in the clerk's office of the circuit court of the United States for the 6th circuit and eastern district of Louisiana, to answer the appeal taken by the United States of America in this cause, and that you show cause, if any there be, why the judgment rendered against the said United States, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 7th day of July, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

Marshal's return.

Received July 12th, 1866, and on the same day, month, and year served a copy of the within citation on Thos. W. Roberts, claimant and defendant named herein, by leaving the same in the hands of Miles Taylor, esq'r., attorney for said Roberts, at the office of said attorney, corner of St. Charles and Union streets, in this city.

M. EGAN,
D'y U. S. Marshal.

New Orleans, July 12, 1866.